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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,555	06/28/2002	Patrice Robert	33808F170	7217
7590 11/28/2003 Smith Gambrell & Russell Suite 800 1850 M Street NW Washington, DC 20036			EXAMINER NUTTER, NATHAN M	
			ART UNIT	PAPER NUMBER
			1711	

DATE MAILED: 11/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/070,555

Applicant(s)

ROBERT ET AL.

Examiner

Nathan M. Nutter

Art Unit

1711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) 5-7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of Group I and the species: for compound (A) (1) ethylene with maleic anhydride copolymer, and for compound (B) (2) a copolymer of ethylene and an unsaturated epoxide, in the Paper filed 24 October 2003 is acknowledged. The traversal is on the ground(s) that:

1) the claims of Group I, claims 1-6, are drawn to a product, "i.e., the composition, and claim 7 is directed to a "process of use of said product" wherein the "use of said product" is the melting and crosslinking of the composition of claim 1 to form an item molded by slush molding", and, as such, "the claims of Group I and the claim of Group II are drawn to a combination of categories which is considered to have "unity of invention", i.e., "product and process of use of said product". And,

2) the search for species (A)(2), (B)(1) and (B)(2) would not present an undue burden upon the Examiner.

This is not found persuasive because:

1) the invention of Group I, claim 7, is drawn to a "process for the manufacture of an item molded by slush molding comprising the melting of a composition according to claim 1, followed by crosslinking of the latter", i.e. a process of making an item. While the composition of the Group I claims is being manipulated, that manipulation is not a method of use of that composition. The method herein recited is a method of making,

but not the composition of Group I, which is the thrust of PCT Rule 13.1 and 37 CFR 1.475.

2) With the addition of species (A)(2), alone, the considerations of patents would be increased substantially in context, even with the same classes and subclasses. With the further addition of species (B)(1) and (B)(3) to this mélange, the considerations would again multiply to a burdensome level.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The recitation in claim 1 of the Melt Flow Index by a bare number of the functionalized polyolefin (A) as "having an MFI of at least 20 (190°C/2.16 kg)" without defining units, such as "dg/min." or "g/10min." renders the claims as vague and confusing. It is not clear what the units might be.

Further, in claim 4 (line 2) the term "advantageously" is neither clear nor concise as to what it is intended to signify. The claim fails to recite any alternative copolymer that might be present.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hert, newly cited.

The reference to Hert teaches the manufacture of a crosslinked composition comprising a functionalized polyolefin (A) selected from ethylene/alkyl(meth)acrylate/maleic anhydride copolymers, that comprise from 0.2 to 10% by weight of maleic anhydride and from 5 to 40% by weight of alkyl (meth) acrylate, and have an MFI of at least 20 (190°C/2.16 kg); a product (B) having the role of crosslinking (A), and wherein (B) is may be an ethylene/alkyl(meth)acrylate/unsaturated epoxide copolymer which can contain up to 40% by weight of alkyl(meth)acrylate and up to 10% by weight of unsaturated epoxide. Hert teaches for inclusion in copolymer (A) 1 to 6% by weight of a carboxylic anhydride and 15 to 39% by weight of at least one alkyl(meth)acrylate, for production of a copolymer having an MFI of from 1 to 50 dg/min. For inclusion in copolymer (B) 1 to 15% by weight of an unsaturated epoxide and 3 to 30% by weight of at least one alkyl(meth)acrylate. All values overlap directly with those recited and herein claimed. Note the Abstract, column 1 (lines 40-67) and column 2 (lines 49-56) for these teachings.

Claim 1 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Nicco et al, newly cited.

The reference to Nicco et al teaches the manufacture of a crosslinked composition comprising a functionalized polyolefin (A) having an MFI of at least 20 (190°C/2.16 kg) containing an anhydride and a product (B) having the role of crosslinking (A), as herein recited. Note the Abstract, column 2 (lines 46-65) and the paragraph bridging column 6 to column 7.

The reference to Vanderbilt, cited of interest, teaches the manufacture of a blend of a terpolymer of ethylene/ α,β -unsaturated carboxylic acid, ester, or anhydride copolymer with a polyolefin having an epoxy functionality, as herein claimed. However, the reference teaches the MFI value as being between 1 and 20 g/10 min. at column 3 (lines 26-43). Further, the reference is not specific as to the use of an alkyl(meth)acrylate over any other ester, or in conjunction with the anhydride. As such, the reference is not deemed to negate the patentability of the instant claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan M. Nutter whose telephone number is 703-308-2443. The examiner can normally be reached on Monday-Friday 9:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James J. Seidleck can be reached on 703-308-2462. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

A handwritten signature in black ink, appearing to read "Nathan M. Nutter". The signature is fluid and cursive, with the first name "Nathan" and last name "Nutter" clearly distinguishable.

Nathan M. Nutter
Primary Examiner
Art Unit 1711

nmn

23 November 2003